

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

**HC**

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/814, 141 03/06/97 WOHLSTADLER J 370208-6158

021675 HM12/0708  
BARRY EVANS  
WHITMAN BREED ABBOTT AND MORGAN  
200 PARK AVENUE  
NEW YORK NY 10166

EXAMINER

CHIN, C	ART UNIT	PAPER NUMBER
---------	----------	--------------

1641  
DATE MAILED:  
07/08/99

**13**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.	08/814,141	Applicant(s)	W. H. Stalter et al
Examiner	C. Chin	Group Art Unit	1641

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 3/29/99

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

Claim(s) 4-48 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 4-48 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892
- Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Other \_\_\_\_\_

## Office Action Summary

Art Unit: 1641

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 4-48 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,2,5-9,11,17-25,27-30,32,35-37,46,47, and 80-150 of copending Application No. 08/611,804. Although the conflicting claims are not identical, they are not patentably distinct from each other for the reasons of record in paper 8.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 4-48 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40-104 of copending Application No.

Art Unit: 1641

08/470,089. Although the conflicting claims are not identical, they are not patentably distinct from each other for the reasons of record in paper 8.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 4-48 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40-153 of copending Application No. 08/470,874. Although the conflicting claims are not identical, they are not patentably distinct from each other for the reasons of record in paper 8.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 4-48 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40-80 of copending Application No. 08/471,050. Although the conflicting claims are not identical, they are not patentably distinct from each other for the reasons of record in paper 8.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Art Unit: 1641

6. Claims 4-48 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 32,34, and 40-101 of copending Application No. 08/402,277. Although the conflicting claims are not identical, they are not patentably distinct from each other because copending '277 claims a cassette having essentially the same limitations as the instant invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 4-48 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27,35,36, and 40-47 of copending Application No. 08/479,425. Although the conflicting claims are not identical, they are not patentably distinct from each other because copending '425 claims apparatus having essentially the same limitations as the instantly claimed invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Chin whose telephone number is (703) 308-3991. The examiner can normally be reached on Monday-Thursday from 8:30 am to 6:00 pm. The examiner can also be reached on alternate Fridays.

Art Unit: 1641

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

cchin/cc  
July 6, 1999

*Christopher L. Chin*  
CHRISTOPHER L. CHIN  
PRIMARY EXAMINER  
GROUP 1800/647